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HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 3251 of 1994

Petitioners		Shrikant Agrawal (dead) through Legal Representatives:-
	1.	Smt. Rajeshwari Agrawal, Widow of Shrikant Agrawal, aged about 44 years.
	2.	Rajesh Agrawal, S/o Late Shri S. K. Agrawal, aged about 23 years.
	3.	Brijesh Agrawal, S/o Late Shri S. K. Agrawal, aged about 21 years.
	4.	Umesh Agrawal, S/o Late Shri S. K. Agrawal, aged about 19 years.
	5.	Shivendra Agrawal, S/o Late Shri S. K. Agrawal, aged about 18 years.
		All R/o Purani Basti, Bania Para, Raipur (C.G.)
	Versus	
Respondents	1.	Central Bank of India, A natinalised Bank, having it's Central Office at 'Chandermukhi' Nariman Point, Bombay – 400 021.
	2.	The General Manager, Central Bank of India, Central Office at Chandermukhi, Nariman Point, Bombay – 400 021
	3.	The Deputy General Manager, Zonal Office, Central Bank of India, 33, Netaji Subhash Road, Calcutta – 700 001

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri R. R. Sinha, Advocate for the petitioners.

Shri B. D. Guru, Advocate for the Respondents.

ORAL ORDER

(19th January, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The present petition was filed by Shri Srikant Agrawal. During the pendency of this petition, the petitioner died and vide order dated 4.9.1998 passed by this Court legal representatives of the petitioner were brought on record.

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2. The petitioner was appointed as Clerk-cum-Cashier on 18.1.1971. Thereafter he was promoted to the post of Junior Management Grade Scale-I on 1.1.1978. He was further promoted to the post of Middle Management Grade Scale-II vide order dated 30.6.1987 (Annexure P/1). He was posted as Branch Manager in Jaithari Branch (Sahdol Region) from 16.10.1984 to 25.1.1986. He was further looking after the work of Branch Manager at Birsinghpur Pali Branch (Sahdol Region) also from 26.1.1986 to 16.1.1987, in the Junior Management Grade Scale-I.

3. When Shri Srikant Agarwal (Shri S. K. Agarwal) was posted as Internal Auditor, Audit Zone, Calcutta, he was served with memorandum dated 17.6.1991 (Annexure P/2) informing him that it was proposed to hold a departmental enquiry against him in regard to the imputation of misconduct set out in the enclosed articles of charge. The statement of misconduct in support of articles of charge was also enclosed with the memorandum. According to the charge-sheet, there were two charges of granting loans. The first charge is for the period when the petitioner was posted at Jaithari Branch. During that period the petitioner granted loans to Shri Dashrath Prasad Soni, Kum. Rita Soni (minor daughter of Shri Dashrath Prasad Soni), Ku. Sangita Soni (minor daughter of Shri Dashrath Prasad Soni), and Master Sanjay Kumar Soni (minor son of Shri Dashrath Prasad Soni) for the purpose of mobile grain shops. The second charge was for the period when the petitioner was posted at Birshingpur Pali Branch. During that period the petitioner granted loans to Shri Birendra Kumar Lal, Shri

Nirbhay Chand Lal, Shri Abhay Chand Lal, and Shri Rajesh Kumar Sharma for the purpose of electrical goods shop, and further allowed clean overdraft to M/s Mithila Electricals (proprietor of which was Shri Nirbhay Chand Lal). Thus the petitioner was charged with misconducts under Regulation 3 (1) (3) read with Regulation 24 of Central Bank of India Officer Employees' (Conduct) Regulations, 1976 (for short 'the Regulations, 1976') for causing monetary loss of about Rs. 1,04,455/- and Rs. 94,094/- to the bank. Thereafter, corrigendum dated 28.10.1991 (Annexure P/3), 2.12.1991 (Annexure P/4) and 27.3.1992 (Annexure P/5) were issued for correcting typographical errors in the charge sheet.

4. Shri K. D. Sood, Assistant Regional Manager, Sahdol was appointed as Inquiring Authority and Shri A. P. Shukla, D.C.O. Regional Office, Gwalior was appointed as Presenting Officer. The Inquiring Authority after issuing notice and giving full opportunity of hearing to the petitioner, submitted his report on 26.6.1992 to the Disciplinary Authority, finding all the charges proved. The enquiry report was supplied to the petitioner vide letter dated 3.9.1992 (Annexure P/7). The petitioner submitted his representation on 31.10.1992 (Annexure P/8). The Disciplinary Authority having agreed with the enquiry report awarded the punishment of "Dismissal which shall ordinarily be a disqualification for future employment" under Clause 4(h) of the Regulations 1976 vide his final order dated 21.12.1992. This decision of the Disciplinary Authority was communicated to the petitioner vide administrative order dated 31.12.1992

(Annexure P/12) and the punishment was inflicted upon the petitioner with immediate effect.

5. Being aggrieved, the petitioner filed an appeal to the appellate authority, Central Bank of India, Central Office, Bombay on 1.2.1993 (Annexure P/14), raising several other grounds including the ground that the finding of the Inquiring Authority was contradictory. The appellate authority by a detailed reasoned order dated 29.7.1993 (Annexure P/15) dismissed the appeal and confirmed the punishment of dismissal from service, awarded to the petitioner in respect of both charges separately, as being commensurate with the seriousness of the charges. Thereafter, the petitioner preferred a review petition-mercy appeal dated 21.8.1993 (Annexure P/16) to the Chairman & Managing Director, Central Bank of India, Bombay, which was also dismissed by order dated 27.1.1994 (Annexure P/17).

6. The petitioner has filed this petition under Article 226 of the Constitution of India praying that the charge sheet Annexure P/2, enquiry report Annexure P/3, order of punishment Annexure P/13, subsequent orders passed in appeal and review Annexure P/15 and P/17 be quashed.

7. The petitioner has challenged the enquiry report on the ground that the petitioner was denied the right of hearing after the enquiry report. It was further averred that the order of punishment was not passed by the disciplinary authority, the charges framed were not specific, the enquiring authority failed to observe the principles of natural justice and the appellate authority has not looked into the contents of the appeal filed by the petitioner while passing the impugned order.

8. I have heard Shri R. R. Sinha, learned counsel for the petitioners as well as Shri B. D. Guru, learned counsel for the respondents, and gone through the enquiry report as well as the order passed by the appellate authority.

9. On perusal of the findings of the enquiring authority, it is found that there is no contradiction in the enquiry report and the charges are specific. The petitioner was given sufficient opportunity of hearing and even after the enquiry report was submitted, the petitioner had filed his representation, which was considered and the dismissal order was passed after considering the representation of the petitioner to the enquiry report. The appellate authority has looked into all the contents of the appeal and held that the enquiry was conducted in a very impartial manner and full opportunity was afforded to the defence. The appellate authority has further recorded the finding that the loans were granted without pre-sanction and post-sanction inspection, which has caused loss to the Bank.

10. With regard to the challenge of the petitioner that the order of dismissal was not passed by the competent authority, it is evident that the order was passed by the competent authority who was Deputy General Manager of the area. Admittedly, Deputy General Manager was competent authority and the General Manager was the appellate authority. On the query, learned counsel for the petitioner is not in a position to point out as to who was the competent authority.

11. Shri B. D. Guru, learned counsel appearing for the respondents relied on the document Annexure R/4, annexed with the return. Said document is not relevant in the present dispute as the

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same deals with the disciplinary authorities for officers of junior management and middle management (scale-II and scale-III). In the present case the petitioner was junior management grade scale-I and the impugned order was passed by a very senior officer i.e. Deputy General Manager and the appellate authority was General Manager. Hence, in the absence of the information, as to who was the real competent authority as it could not be pointed out by learned counsel for the petitioner, the Deputy General Manager is the competent disciplinary authority in the present case.

12. I do not find any infirmity in the enquiry report, the order passed by the disciplinary authority and the order passed by the appellate authority. Hence, it does not warrant for an interference with the findings and decisions of the disciplinary authority as well as the appellate authority.

13. For the reasons stated above, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur